IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1463 OF 2006

Board of Trustees of
Jawaharlal Nehru Port Trust .... Petitioner

Vs.

Navha Sheva Port and General
Workers Union .... Respondent

Sarvasri C.U. Singh, Senior Advocate, with
Bhalwal, Advocate i/b M/s. Vyas & Bhalwal
for the Petitioner.
Shri Jaiprakash Sawant, Advocate, for the
Respondent.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: FEBRUARY 21, 2007

ORDER:

1. Heard. This petition arises from the ad-interim order dated 24-6-2005 passed by the Central Government Industrial Tribunal at Mumbai in Reference CGIT No.6 of 2004. By the impugned order, the hearing of the matter was adjourned and meanwhile, the parties were directed to maintain status quo in the matter of service

condition of the workmen concerning the dispute. The challenge to the impugned order is on the ground that the Industrial Tribunal has no power to grant interim relief and in that connection, reliance is sought to be placed in the decision of the Division Bench of this Court in **MRF Ltd., Goa v. Goa MRF Employees' Union, Goa and another,** reported in 2004 I-LLJ 394.

2. Knowing fully well the limited scope of the jurisdiction under Article 227 of the Constitution of India for interference in the orders passed by the Tribunals and Courts below and on consideration of the decision of the Division Bench in **MRF Ltd.'s** case (supra), it is apparent that it was a decision in relation to complaint under Section 33-A of the Industrial Disputes Act, 1947 and not in relation to any apprehended breach or contravention of law, and further that the decision, rather than laying down the law as sought to be canvassed, clearly rules that "the interim relief granted should be capable of being enforced under the provisions of the I.D. Act.". Indeed, the law on the point that Industrial Tribunal is duly empowered to grant interim relief in exercise of power under Section 10(4) of the I.D. Act is well-settled by the decision of the Apex Court in **The Management Hotel Imperial, New Delhi and others v. Hotel Workers' Union,** reported in AIR 1959 SC 1342. Therein, it was specifically ruled

that:

> "Thus interim relief where it is admissible can be granted as a matter incidental to the main question referred to the tribunal without being itself referred in express terms."

The Apex Court while ruling so had taken note of the difference between interim award and interim relief and it was held that:

> "It is also open to the tribunal to make an award about some of the matters referred to it whilst some others still remain to be decided. This will be an interim determination of any question relating thereto. In either case it will have to be published as required by S.17. Such awards are however not in the nature of interim relief for they decide the industrial dispute or some question relating thereto. **Interim relief, on the other hand, is granted under the power conferred on the tribunal under S.10(4) with respect to matters incidental to the points of**

dispute for adjudication."

(emphasis supplied)

Similar is the ruling in **M/s. Lokmat Newspapers Pvt. Ltd. v. Shankarprasad,** reported in AIR 1999 SC 2423 wherein the Apex Court taking note of Section 10 of the I.D. Act held that the competent Court had power to stay an impugned retrenchment order by way of interim relief and to direct the maintenance of status quo. It was specifically ruled that:

> "It is also necessary to note that in such references received by the competent Court under the I.D. Act in appropriate cases, the Court to which such references are made has ample jurisdiction to pass interim orders and if the Court had found that the impugned retrenchment order was required to be stayed even though it had been passed after conciliation proceedings were over and when there was no prohibitory order from any authority such retrenchment order could have been stayed. Further implementation of the impugned change could have been stayed."

3. In the case in hand, the Industrial Tribunal has merely granted adjournment and meanwhile, has directed the maintenance of status quo. The order is squarely covered by the provisions of Section 10(4) and it does not disclose any jurisdictional error so as to warrant interference in exercise of powers under Article 227 of the Constitution of India.

4. For the reasons stated above, the petition is dismissed in limine.

(R.M.S. Khandeparkar, J.)

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